

Application Serial No.: 10/687,834
Amendment dated October 31, 2005
Reply to Office Action mailed: August 17, 2005

REMARKS/ARGUMENTS

Claims 1, 2, 4 and 8-18 stand finally rejected. The Applicant requests the withdrawal of finality and allowance of all the claims.

Improper finality

The finality of the Office Action is improper. The Applicant responded to the previous final action requesting withdrawal of finality as it was not necessitated by the applicant amendment. The Applicant's previous response stated "The features previously presented in dependent Claim 3 have been incorporated into independent claim 1, and therefore do not require a new search. Furthermore, the Office Action has never addressed all the limitations of Claim 3, and therefore the Applicant is entitled to a new Office Action." (Page 5 of Response of February 28, 2005)

Now, the current Office Action claims the submission of an IDS prompted the new grounds of rejection and thus the Action is made final and cites MPEP§ 609(b)(2)(i).

MPEP §609(b)(2)(i) states:

" If information submitted during the period set fourth in 37 CFR 1.97(c) with a statement under 37 CFR 1.97(e) is used in a new ground of rejection on un-amended claims, the next Office action will not be made final since in this situation it is

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clear that applicant has submitted the information to the
Office promptly after it has become known and the
information is being submitted prior to a final determination
on patentability by the Office.”

The Applicant requests the examiner to specify how this statement facilitates the
application of Finality.

Furthermore MPEP 706.07(b) states explicitly that a final rejection is not proper in
this case.

MPEP 706.07(b)

“However, it would not be proper to make final a first Office
action in a continuing or substitute application where that
application contains material which was presented in the
earlier application after final rejection of closing of
prosecution but was denied entry because (A) new issues
were raised that required further consideration and /or search,
or (B) the issue of new matter was raised.”

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The Examiner is invited to review the Advisory Action of March 6, 2005 in which the Examiner stated the amendments would not be entered because they raised new issues that would require further consideration and or search.

It is clear for several reasons the finality of this Action is improper and must be withdrawn.

35 U.S.C. §102 Rejections

Claims 1, 2, 4, 8, 11 and 16 stand improperly rejected as being anticipated by Halm.

Claim 1, recites *inter alia* "the plastic body which surrounds the stator is an integral one piece molded body defining a first bearing seat for receiving a first bearing at the first shaft end and a second bearing seat for receiving a second bearing at the second shaft end in an interior wall of said chamber."

The claim requires a second bearing seat in the plastic body. However, Halm does not disclose such a second bearing seat.

An English translation of Halm states "a sliding bearing 111 inserted into a camp carrier 112" and "between this sliding bearing 111 and the camp carrier 112 on the one

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hand as well as the housing of the circulating heating pump 101 a filter ring 113 is arranged in the drilling of the housing 102 aligning with the drilling of the stand 103.”

The housing 102 of Halm does not include a bearing seat on the body at the second end, rather a camp carrier 112 and a filter ring 113 form a seat for the bearing 111 on the second shaft end of Halm. This can easily be seen in Figures 4, 5, 9 and 10. Therefore, in no manner could Halm anticipate Claim 1.

Furthermore, as Claims 2, 4, 8, 11 and 16 depend from Claim 1, they also cannot be anticipated by Halm, irrespective of the additional features recited therein.

The rejection of Claims 1, 2, 4, 8, 11 and 16 must be withdrawn.

35 U.S.C. §103 Rejections

I. The Office incorrectly rejected Claim 9 as being obvious over Halm in view of Berger.

Berger also does not show the plastic body which surrounds the stator is an integral one piece molded body defining a first bearing seat for receiving a first bearing at the first shaft end and a second bearing seat for receiving a second bearing at the second shaft end in an interior wall of said chamber, as recited in Claim 1, from which Claim 9 depends. Therefore, since Berger does not obviate the deficiencies of Halm. The combination of Halm and Berger cannot render Claim 1 and likewise Claim 9 obvious.

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The rejection of Claim 9 must be withdrawn.

II. The Office incorrectly rejected Claims 10, 12-14, 17 and 18 as being obvious over Halm and Akutsu.

The Office uses Akutsu for providing three phase windings for the purpose of making a three phase motor. However Akutsu does not obviate the deficiencies of Halm, particularly related to the body having a second bearing seat.

Therefore, since the combination of Halm and Akutsu cannot render Claim 1 obvious, it cannot render Claims 10, 12-14, 17 and 18, which depend from Claim 1, obvious irrespective of the additional features recited therein.

The rejection of Claims 10, 12-14, 17 and 18 must be withdrawn.

III. The Office incorrectly rejected Claim 15 as being obvious over Halm and Turk.

The Office uses Turk to provide a teaching for using metal parts to shield the motor. However, irrespective of such a proposed teaching, Turk does not obviate the deficiencies of Halm as addressed above and therefore fails to form a proper rejection.

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The combination of Halm and Turk cannot render Claim 1, from which Claim 15 depends obvious and thus cannot render Claim 15 obvious irrespective of the additional features recited therein.

The rejection of Claim 15 must be withdrawn.

CONCLUSION


The Applicant has highlighted that a clear non obvious difference of the invention as described in the current claims and the cited prior art is that the motor housing, i.e., plastic body, is integrally formed, i.e., it is a one-piece component, and at each end includes a bearing seat into which respective bearings are inserted. None of the prior art references teach such a feature. Therefore the Applicants request withdrawal of the rejections and allowance of the application including Claims 1, 2, 4, 8-18.

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Although an extension of time is not deemed necessary at this time, the Office is hereby authorized to charge any appropriate extension fee to Deposit Account No.

04-1679, Duane Morris LLP.

Respectfully submitted,



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10/687,834	10/20/2003	Axel Boettger	BOE01 026	2006

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EXAMINER
LE, DANG D

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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DUANE MORRIS, LLP
OCT 24 2005

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OCT 31 2005

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/687,834

Applicant(s)

BOETTGER ET AL.

Examiner

Dang D. Le

Art Unit

2834

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
THE REPLY FILED 06 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

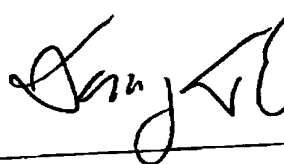
AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
There is no signature.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

DANGLE
PRIMARY EXAMINER



10/14/05

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Advisory Action Before the Filing of an Appeal Brief

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